IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18593 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SWATIBEN PANKAJBHAI RAMANI

Versus

CHIEF CONTROLLING REVENUE AUTHORITY AND ANOTHER

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Appearance :
MR SANDEEP N BHATT for Petitioner.
MS MD MEHTA, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 06/08/2007

ORAL JUDGMENT

1. The petitioner has invoked Article 226 of the Constitution to challenge order dated 20th June 2003, which was made under the provisions of Section 32 A of the Bombay Stamp Act, 1958 (for short "the Act") and communication dated 4-4-2006 by which she was informed that her application for reference was dismissed only on the ground of

delay. There was no dispute about the fact that, after aforesaid order dated 20th June 2003 the petitioner had made an application for reference under the provisions of Section 32 B of the Act and had also deposited 25% of deficit of stamp duty, which was accepted by the Authority. It was almost three years thereafter that the petitioner's application for reference was rejected only on the ground of delay.

2. It was fairly conceded by learned AGP that, in view of deposit having been made and accepted, a statement of case ought to have been made by the Deputy Collector concerned for consideration by the Chief Controlling Revenue Authority, who could have considered the reference on merits in view of several judgments of this Court. Therefore, a concession was made that pursuant to the application of the petitioner and deposit made by her, appropriate statement of the case will be made by the Deputy Collector concerned and the same shall be expeditiously considered by the Chief Controlling Revenue Authority, after affording to the petitioner an opportunity of being heard. Accordingly, the petition is partly allowed with the direction that respondent no.2 shall make a statement of the case of the petitioner and refer it for consideration by respondent no.1, if such reference is not already made, and the Authority shall consider the application of the petitioner and reference in her case and dispose the same in accordance with law, after affording to the petitioner an opportunity of being heard. In view of long lapse of time, said proceeding shall be conducted and concluded as expeditiously as practicable and, in the meantime, no coercive recovery shall be effected pursuant to impugned order dated 20th June 2003 against the petitioner. Rule is made absolute accordingly with no order as to costs. Direct service is permitted.

(D.H.Waghela, J.)

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